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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/613,385 | 07/03/2003 | Raymond Hobbs | 12207.0900 | 7221 |
| 7590 | 11/01/2005 | | EXAMINER | |
| Snell & Wilmer L.L.P. One Arizona Center 400 East Van Buren Phoenix, AZ 85004-2202 | | | MAUST, TIMOTHY LEWIS | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3751 | |
| DATE MAILED: 11/01/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

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|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/613,385 | HOBBS, RAYMOND | |
| | Examiner | Art Unit | |
| | Timothy L. Maust | 3751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-6, 11-15, 27, 29-37 and 39-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Graham et al.

In regard to claims 1, 2, 27, 35-37, 39, 40-42 and 44, the Graham et al. reference discloses a prefabricated or assembled on site “hydrogen gas dispenser system” 1 comprising a “hydrogen source” 2, a “pressurizing apparatus” (compressor 7), an “enclosure” 18, at least one “pressure vessel” 6, a “dispenser” 3 and “valves” and “piping” (9, 11, 30, 31) to fuel a “vehicle” 4, as claimed.

In regard to claims 3, 4, 18, 19, 31-34 and 32, see abstract.

In regard to claim 5, see “cylinders” 6 vertically oriented in Figures 4a and 4b.

In regard to claims 6 and 27, see vertical "vent pipes" 53 in Figure 5b.

In regard to claims 11, 12, 21, 26 and 43, see "electrolysis unit" 34 in Figure 4b and column 9, lines 29-39.

In regard to claims 13-15, see column 4, lines 33-47.

In regard to claim 20, "walls" 20 are curved away from the internal equipment as seen in Figures 3a and 3b.

In regard to claims 29, 30 and 40 see column 8, lines 43-55.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10, 16-26, 28 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al.

In regard to claims 16-26 and 28, the Graham et al. reference discloses the invention substantially as claimed (discussed supra) including "walls" 14 (see Figure 3a), but does not disclose the walls being cylindrical or leaning away from the equipment. It would have been an obvious matter of design choice to make the walls cylindrical or leaning, since applicant has not disclosed that a cylindrical or leaning wall rather than a rectangular wall solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a rectangular wall.

In regard to claims 7-9 and 38, it would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the supply pipe at least partially inside the vent pipe, locate all penetrations at the top of the pressure vessel, and locate the bottom of the pressure vessel below grade (see col. 5, lines 26-28), since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

In regard to claim 10, the "interstitial space" is vented via air inlet 24 (see col. 5, lines 4-6).


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Eichelberger et al. and Ovshinsky et al. references pertain to various hydrogen dispensing systems, similar to Applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (571) 272-4891. The examiner can normally be reached on Tue. - Thur. 6:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Timothy L Maust
Primary Examiner
Art Unit 3751

Tlm
10/27/05